

02-278

United States Congress

August 24, 2010

EB
TCPA
1444

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street SW
Room 8-B201
Washington, D.C. 20554

FILED/ACCEPTED

SEP 17 2010

Federal Communications Commission
Office of the Secretary

Dear Chairman Genachowski:

We are writing regarding the Commission's Further Notice of Proposed Rulemaking in docket number 02-278. We are pleased that the Commission is working to harmonize the FCC and FTC rules under the Telephone Consumer Protection Act (TCPA) governing auto-dialed and prerecorded commercial telemarketing sales calls.

Technology has advanced far beyond what any of us could have anticipated when the TCPA was passed in 1991. However, the intent was clearly not to restrict such advancements, but rather give consumers greater control and more information about the telemarketing calls they receive. TCPA established policies to rightfully prevent intrusive computer-generated calls for which the called party has no means of "escape," in which the consumer receives one-way communication without the ability to speak with a live operator or customer service representative. Since that time, telemarketing technology has advanced tremendously and these advancements have made customer interaction better and more efficient.

CallAssistant LLC, based in our home state of Utah, is a leading developer of technology to allow human-to-human interaction on each call, while utilizing operator-supervised prerecorded call segments to maximize the effect of the call. CallAssistant LLC submitted reply comments to FCC in June 2010, requesting the Commission clarify the applicability of TCPA as appropriate to operator-supervised calls using prerecorded call segments. We echo their request.

The new technology deployed by CallAssistant and others enables calling agents to interact with the recipient of a call using his or her own voice or by substituting appropriate audio recording of a response. At all times, even during the playing of any recorded segment, the agent retains the power to interrupt the recorded message and respond directly and personally to the consumer. Live agents hear every word spoken by the call recipient, and determine what is said and are able to respond; further, a single agent always stays with a call from beginning to end.

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We support efforts made to give consumers better information and options to participate or opt out of telemarketing calls. We look forward to the Commission's timely clarification on this issue.

Sincerely,



Senator Robert F. Bennett
United States Senate



Senator Orrin G. Hatch
United States Senate



Representative Rob Bishop
United States House of Representatives



Representative Jason Chaffetz
United States House of Representatives



Representative Jim Matheson
United States House of Representatives

RFB:nc